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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011-954

13
14 **DENISE LU DIRR**
15 **aka DENISE LU JOHANSEN**
16 P.O. Box 912
17 Rancho Cordova, California 95741

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18 **Registered Nurse License No. 336255**

19 Respondent.

20
21 **FINDINGS OF FACT**

22 1. On or about May 31, 2011, Complainant Louise R. Bailey, M.Ed., R.N.; in her
23 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
24 Consumer Affairs, filed Accusation No. 2011-954 against Denise Lu Dirr, aka Denise Lu
25 Johansen (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit
26 A.)
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1 2. On or about September 30, 1981, the Board of Registered Nursing (Board) issued
2 Registered Nurse License No. 336255 to Respondent. The Registered Nurse License expired on
3 June 30, 2009, and has not been renewed.

4 3. On or about May 31, 2011, Respondent was served by Certified and First Class Mail
5 copies of the Accusation No. 2011-954, Statement to Respondent, Notice of Defense, Request for
6 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
7 Respondent's address of record which, pursuant to California Code of Regulations, Title 16,
8 section 1409.1, is required to be reported and maintained with the Board. Respondent's address
9 of record was: P.O. Box 912, Rancho Cordova, California 95741.

10 4. Service of the Accusation was effective as a matter of law under the provisions of
11 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
12 124.

13 5. On or about June 20, 2011, Respondent signed and returned a Notice of Defense,
14 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
15 address of record and the address listed on her Notice of Defense it informed her that an
16 administrative hearing in this matter was scheduled for September 19, 2012. Respondent failed to
17 appear at that hearing. At the hearing the jurisdictional documents were received and official
18 notice was taken of the United Postal Service website containing information that the proper zip
19 code for respondent's P.O. Box is 95741. (Exhibit B.)

20 6. Government Code section 11506 states, in pertinent part:

21 (c) The respondent shall be entitled to a hearing on the merits if the respondent
22 files a notice of defense, and the notice shall be deemed a specific denial of all parts
23 of the accusation not expressly admitted. Failure to file a notice of defense shall
24 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
25 may nevertheless grant a hearing.

26 7. California Government Code section 11520 states, in pertinent part:

27 (a) If the respondent either fails to file a notice of defense or to appear at the
28 hearing, the agency may take action based upon the respondent's express admissions
or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

1 8. Pursuant to its authority under Government Code section 11520, the Board finds
2 Respondent is in default. The Board will take action without further hearing and, based on the
3 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
4 taking official notice of all the investigatory reports, exhibits and statements contained therein on
5 file at the Board's offices regarding the allegations contained in Accusation No. 2011-954, finds
6 that the charges and allegations in Accusation No. 2011-954, are separately and severally, found
7 to be true and correct by clear and convincing evidence.

8 9. Taking official notice of its own internal records, pursuant to Business and
9 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
10 and Enforcement is \$10,034.50 as of September 19, 2012.

11 DETERMINATION OF ISSUES

12 1. Based on the foregoing findings of fact, Respondent Denise Lu Dirr, aka Denise Lu
13 Johansen has subjected her Registered Nurse License No. 336255 to discipline.

14 2. The agency has jurisdiction to adjudicate this case by default.

15 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
16 Nurse License based upon the following violations alleged in the Accusation which are supported
17 by the evidence contained in the Default Decision Evidence Packet in this case:

18 a. The Board's investigation revealed that between January 2006 and March 2009,
19 Respondent filled 249 prescriptions for a variety of controlled substances. The prescriptions were
20 issued by 45 different physicians. The physicians were unaware that Respondent was being
21 treated and prescribed controlled substances simultaneously.

22 b Respondent is subject to discipline under Code section 2761(a), on the grounds of
23 unprofessional conduct as defined in Code section 2762(a), in that between January 2006 and
24 March 2009, while a licensed registered nurse¹, Respondent did the following:

25 1.. Respondent obtained the following controlled substances, by fraud, deceit,
26 misrepresentation, or subterfuge or by the concealment of a material fact in violation of Health

27 ¹ Respondent was employed as a registered nurse at Folsom State Prison until
28 July 31, 2007.

1 and Safety Code section 11173(a), by failing to disclose controlled substances being prescribed to
2 her by various physicians simultaneously:

3 Vicodin (9,557 tablets)
4 Alprazolam (2,288 tablets)
5 Methadone (1,844 tablets)
6 Oxycodone (439 tablets)
7 Morphine (240 tablets)
8 Clonazepam (530 tablets)
9 Temazepam (153 tablets)
10 Diazepam (116 tablets)
11 Lorazepam (60 tablets)
12 Flurazepam (20 tablets)
13 Zolpidem (104 tablets)
14 Endocet (20 tablets)
15 Kadian (60 tablets)
16 Histex (360 ML syrup)
17 Hydromet (150 ML syrup)

18 c. Respondent is subject to discipline under Code section 2761(a), on the grounds of
19 unprofessional conduct as defined in Code section 2762(b), in that between January 2006 and
20 March 2009, while a licensed registered nurse, Respondent used controlled substances to an
21 extent or in a manner dangerous or injurious to herself, any other person, or the public, or to the
22 extent that such use impaired her ability to conduct with safety to the public the practice
23 authorized by her license, in that Respondent overmedicated herself, as more particularly set forth
24 in paragraph b, above.

25 d. Respondent is subject to discipline under Code section 2761(f), in that on or about
26 March 29, 2007, in the case of *People v. Denise Lu Dirr*, (Super. Ct. Nevada County, Case No.
27 M06-1612), Respondent was convicted by the Court on her plea of guilty of violating Vehicle
28 Code section 23103 (reckless driving/driving a vehicle upon a highway in willful or wanton
disregard for the safety of persons or property), and section 23103.5 (in satisfaction of, or as a
substitute for, an original charge of a violation of section 23152(a) (unlawfully driving a vehicle
while under the influence of a drug), a crime that is substantially related to the qualifications,
functions or duties of a licensed registered nurse:

1 e. Respondent is subject to discipline under Code section 2761(a), on the grounds of
2 unprofessional conduct as defined in Code section 2762(c), in that on or about March 29, 2007,
3 Respondent was convicted of a crime involving the consumption of a controlled substance, as
4 more particularly set forth above in paragraph 27.


ORDER

IT IS SO ORDERED that Registered Nurse License No. 336255, heretofore issued to Respondent Denise Lu Dirr, aka Denise Lu Johansen, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on January 11, 2013

It is so ORDERED December 12, 2012


FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

10957240.DOC
DOJ Matter ID:SA2010101473

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 ELENA L. ALMANZO
Deputy Attorney General
4 State Bar No. 131058
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-5524
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2011-954**

ACCUSATION

13 **DENISE LU DIRR**
14 **aka DENISE LU JOHANSEN**
P.O. Box 912
Rancho Cordova, California 95741

15 **Registered Nurse License No. 336255**

16 Respondent.

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18
19 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

20 **PARTIES**

- 21 1. Complainant brings this Accusation solely in her official capacity as the Executive
22 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.
- 23 2. On or about September 30, 1981, the Board issued Registered Nurse License Number
24 336255 to Denise Lu Dirr, also known as Denise Lu Johansen ("Respondent"). The license was
25 in full force and effect at all times relevant to the charges brought herein. The license expired on
26 June 30, 2009, and has not been renewed.

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STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811(b), the Board may renew an expired license at any time within eight years after the expiration.

4. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct.

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

5. Code section 2762 states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

6. Health and Safety Code section 11173(a), states:

No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a

material fact.

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS

8. "Vicodin" is a compound consisting of 5 mg, hydrocodone bitartrate, also known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4), and 500 mg, acetaminophen per tablet.

9. "Methadone" is a Schedule II controlled substance as designated by Health and Safety Code section 11055(c)(14).

10. "Oxycodone" is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(N).

11. "Diazepam", a benzodiazepine derivative, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(7).

12. "Lorazepam" is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(11).

13. "Temazepam," is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(24).

14. "Clonazepam", a benzodiazepine derivative, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(5).

15. "Flurazepam Hydrochloride" is a Schedule IV controlled substance within the meaning of Health and Safety Code section 11057(d)(10).

16. "Ambien," a brand name for Zolpidem is a controlled substance as defined in Health and Safety Code section 11057(d).

17. "Morphine" is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(M).

1 18. "Xanax," a brand of alprazolam, is a Schedule IV controlled substance as defined in
2 Health and Safety Code section 11057(d)(1).

3 19. "Endocet" is a Schedule II controlled substance as designated by Health and Safety
4 Code section 11055.

5 20. "Kadian" is a Schedule II controlled substance as designated by Health and Safety
6 Code section 11055.

7 21. "Histex HC" is a Schedule III controlled substance as designed by Health and Safety
8 Code section 11056(e)(4).

9 22. "Hydromet" is a Schedule III controlled substance as designed by Health and Safety
10 Code section 11056(e)(4).

11 **BACKGROUND INFORMATION**

12 23. On or about April 2, 2007, the Board received an anonymous complaint from a
13 "concerned pharmacist" alleging that Respondent may have a narcotic dependency/abuse problem
14 due to her manipulative behavior (claiming to have been shorted pills), and the pharmacist's
15 discovery that Respondent had narcotic prescriptions filled at numerous other pharmacies.

16 24. The Board's investigation revealed that between January 2006 and March 2009,
17 Respondent filled 249 prescriptions for a variety of controlled substances. The prescriptions were
18 issued by 45 different physicians. The physicians were unaware that Respondent was being
19 treated and prescribed controlled substances simultaneously.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Obtained Controlled Substances)**

22 25. Respondent is subject to discipline under Code section 2761(a), on the grounds of
23 unprofessional conduct as defined in Code section 2762(a), in that between January 2006 and
24 March 2009, while a licensed registered nurse¹, Respondent did the following:

25 a. Respondent obtained the following controlled substances, by fraud, deceit,
26 misrepresentation, or subterfuge or by the concealment of a material fact in violation of Health

27 ¹ Respondent was employed as a registered nurse at Folsom State Prison until
28 July 31, 2007.

1 and Safety Code section 11173(a), by failing to disclose controlled substances being prescribed to
2 her by various physicians simultaneously:

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13 Zolpidem (104 tablets)
14 Endocet (20 tablets)
15 Kadian (60 tablets)
16 Histex (360 ML syrup)
17 Hydromet (150 ML syrup)

18 SECOND CAUSE FOR DISCIPLINE

19 (Use of Controlled Substances)

20 26. Respondent is subject to discipline under Code section 2761(a), on the grounds of
21 unprofessional conduct as defined in Code section 2762(b), in that between January 2006 and
22 March 2009, while a licensed registered nurse, Respondent used controlled substances to an
23 extent or in a manner dangerous or injurious to herself, any other person, or the public, or to the
24 extent that such use impaired her ability to conduct with safety to the public the practice
25 authorized by her license, in that Respondent overmedicated herself, as more particularly set forth
26 in paragraph 24.

27 THIRD CAUSE FOR DISCIPLINE

28 (Conviction of a Crime)

29 27. Respondent is subject to discipline under Code section 2761(f), in that on or about
30 March 29, 2007, in the case of *People v. Denise Lu Dirr*, (Super. Ct. Nevada County, Case No.
31 M06-1612), Respondent was convicted by the Court on her plea of guilty of violating Vehicle
32 Code section 23103 (reckless driving/driving a vehicle upon a highway in willful or wanton
33 disregard for the safety of persons or property), and section 23103.5 (in satisfaction of, or as a

1 substitute for, an original charge of a violation of section 23152(a) (unlawfully driving a vehicle
2 while under the influence of a drug)), a crime that is substantially related to the qualifications,
3 functions or duties of a licensed registered nurse:

4 ///

5 **FOURTH CAUSE FOR DISCIPLINE**

6 **(Conviction Involving the Consumption of a Controlled Substance)**

7 28. Respondent is subject to discipline under Code section 2761(a), on the grounds of
8 unprofessional conduct as defined in Code section 2762(c), in that on or about March 29, 2007,
9 Respondent was convicted of a crime involving the consumption of a controlled substance, as
10 more particularly set forth above in paragraph 27.

11 **PRAYER**

12 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Registered Nursing issue a decision:

14 1. Revoking or suspending Registered Nurse License Number 336255, issued to Denise
15 Lu Dirr, also known as Denise Lu Johansen;

16 2. Ordering Denise Lu Dirr, also known as Denise Lu Johansen, to pay the Board of
17 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
18 pursuant to Business and Professions Code section 125.3; and,

19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: 5/31/2011

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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